IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

MFA.No. 527 of 2003()

OPMV.870/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KASARAGOD

.....

APPELLANT:

ABDULLA, S/O. KUNHAMMED,
YUNUS MANZIL, BEKAL KUNHIL, PALLIKKARA P.O.,
HOSDURG TALUK.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

---

*1. KUNHIRAMAN PULINGAL, (DELETED)
S/O.KURUVADAN KELU, KOVVAL, CHERUVATHUR,
HOSDURG TALUK.

(THE NAME OF R1 IS DELETED FROM PARTY ARRAY AT THE RISK OF THE APPELLANT VIDE ORDER DATED 13.4.2007 IN I.A. 824/2007)

2. K.KUNHAMMED S/O. ABBAS,
KOOLIYAKKAD HOUSE, KANHANGAD P.O.,
CHITTARI, HOSDURG TALUK.

3. THE MANAGER,
UNITED INDIA INSURANCE CO. LTD., BRANCH OFFICE,
KOTTACHERRY, KANHANGAD.

BY ADV. SMT.M.LALITHA NAIR

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/08/2007 THE COURT ON DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A No. 527 of 2003

Dated this the 7th day of August 2007

JUDGMENT

The petitioner/ claimant in O.P (MV) 870/1998 on the file of the Motor Accidents Claims Tribunal is the appellant. The appellant met with an accident on 9-9-1998 at 2.30 p.m. and sustained injuries. He filed an original petition impleading the owner, driver and insurer of the vehicle. The owner and driver did not contest. The 3rd respondent insurer alone contested the matter. The insured denied its liability contending that there was violation of policy conditions. Negligence alleged on the part of the driver was denied. The quantum of compensation claimed was disputed. The Tribunal after enquiry found that the accident occurred due to the negligence of the driver of the autorickshaw. It was found that the appellant was entitled to get a compensation of Rs. 32,960/-. and the 3rd respondent insurer was directed to pay that amount

2. Challenging that quantum of compensation alone, this appeal is filed. The finding of the Tribunal that the accident occurred due to the negligence of the driver of the auto rickshaw and the appellant was entitled to get compensation and the insurer was liable to indemnify the insured have become final and conclusive. So the only question arising for consideration is whether the appellant is entitled to get any additional compensation. According to the appellant immediately after the accident he was taken to Manzoor Hospital, Kanhangad and he was treated there from 9-9-1998 to 20-9-1998. From there he was taken to Kasturba

Hospital, Manipal on 30-9-1998. Ext.A3 wound certificate issued from the Manzoor Hospital shows that the appellant developed Peritonitus. and Laprotomy was done. There was minimal blood stained peritoneal fluga and grossly enlarged liver displaced downwards. . In the Kasturba hospital the Doctor had noted that there was tenderness under the right hypochondrium The evidence adduced in this case shows that the appellant sustained very serious injuries. So the finding of the Tribunal that the injuries sustained by the appellant were minor is not correct. The appellant had produced medical bills and vouchers for an amount of Rs. 20,424/-. It is true that in some of the bills and vouchers the name of doctor was not stated.

3. I am of the view that at least an amount of Rs. 17,500/- ought to have been awarded for the treatment expenses by the Tribunal. The petitioner is already awarded 3,000/- . So the petitioner is entitled to get another 14,500/- more, towards treatment expenses. I do not find any reason to interfere with the quantum of compensation awarded on any other counts.

4. In the result, the appeal is allowed in part. An award is passed in favour of the petitioner allowing him to recover an additional compensation of Rs. 14,500/- with 6% interest from the date of petition till the date of realisation,. The 3rd respondent insurer is directed to deposit that amount also. On deposit the appellant can withdraw the entire amount.

K.PADMANABHAN NAIR,JUDGE

es